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SUBJECT: WAR ON TERRORISM - THE SECURITY COUNCIL'S ROLE -
MAKING IT WORK FOR THE U.S.

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[B. B. USUN 1407](#)

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[F. F. USUN 1207](#)

[G. G. USUN 1253](#)

[1](#)1. Summary: UN efforts to counter terrorism have increased significantly since September 11, 2001. Pre-9/11 focus on negotiating conventions in the General Assembly has shifted to more robust and aggressive counter-terrorism measures mandated by the Security Council. Although the General Assembly has reacted by trying to map out a system-wide strategy, negotiations have been hampered by the insistence of some states on clinging to theological positions instead of embracing a more action-oriented pragmatic approach. As a result, this cable addresses only SC counter-terrorism efforts, describes limitations to the UN,s ability to be a lead actor in countering terrorism, and suggests ways to strengthen UN effectiveness in those areas where it can contribute to the war on terrorism. End Summary.

UN,s Role in US Counter terrorism

[1](#)2. As we prepare for the renewal of several UN Committees, the United States has an opportunity to reassess the effectiveness of our efforts to counter terrorism multilaterally through the UN. Given the difficulties of sharing intelligence and law enforcement information broadly, the UN is inherently a highly limited mechanism for conducting counter-terrorism operations, and its bureaucratic structure imposes other obstacles to developing robust counter terrorism policy. On the other hand, the UN,s global reach and the Security Council,s Chapter VII authority are valuable assets.

[1](#)3. As a supplement to the main elements of a U.S. program centered on G-8 and bilateral efforts, the UN can play a useful role. Financial sanctions, travel bans, arms embargoes, and technical assistance to states to upgrade their counter-terrorism capacities, have been identified and undertaken, principally by the Security Council. Even so, changing the way that 192 member states approach and deal with the problem of international terrorism will be a protracted process and dramatic results should not be expected in the short run but these efforts should improve the international climate for US CT operations.

[1](#)4. The experience of the UN,s work in counter-terrorism underscores the need to focus on areas where member states can agree. USUN,s assessment is that the supporting role for the UN has the most promise for making a lasting contribution to the war on terrorism. It offers an

opportunity to use the resources of the international community to enhance the CT capacity of states that share US objectives and enable them to become more effective partners in counter-terrorism operations.

UNSC Leads UN CT Effort

15. Before SC resolution 1267 (1999) imposed sanctions aimed at the operations of the Taliban, SC action against terrorism was sporadic and for the most part confined to the issuance of statements in reaction to specific terrorist acts. The Council, which has primary responsibility for threats to international peace and security, had largely left counter terrorism to the General Assembly, although it responded to the bombings of Pan Am and UTA airliners in 1988 and 1989 by imposing sanctions on Libya. This changed after September 11, 2001. Resolution 1368 (2001) adopted on September 12 stated clearly that terrorism constitutes a threat to international peace and security and a series of resolutions adopted since September 2001 form the foundation of an active SC program to build a unified offense and defense against terrorism. As part of this program, UN resolutions 1267, 1373, 1540 and 1566 established the following Council sub-committees and Working Group:

--SC Resolution 1267 (1999) - Established the 1267 Committee, which oversees sanctions on the Taliban, Usama bin Laden, al-Qa'ida, and associated individuals and entities. The 1267 Committee differs significantly from CTC and 1540 because it can impose sanctions. To date, the Committee has designated 481 terrorists and their supporters for sanctions (travel

ban, assets freeze, arms embargo), and frozen over 100 million dollars in terrorist assets making it the most active of the UN Security Council's sanctions committees. The work of the Committee has benefited from international agreement on the need to fight al-Qa'ida. The U.S. relies on the 1267 Committee as a key tool in the fight against al-Qa'ida, specifically to counter terrorism finance but its mandate is limited to al-Qa'ida, the Taliban, and associated individuals

The Committee is supported by a Monitoring Team (MT) of eight experts, who assist in implementing the sanctions regime. The MT has prepared five comprehensive reports for the Council on states' implementation of the sanctions measures. These reports also make recommendations for strengthening the sanctions and responding to the evolution of al-Qa'ida. The MT and/or the 1267 Chairman visit states to help them understand their obligations and enhance enforcement of the sanctions regime, and to encourage states to participate in enhancing the sanctions regime by submitting names for the Committee's sanctions list. The 1267 Committee requested all states to submit one report on their implementation of the sanctions measures, and the MT developed a questionnaire to help states in their reporting and analyzed those reports. The MT also coordinates with other international organizations as a way to increase awareness of the sanctions and the obligations of states to enforce those sanctions. The MT's mandate expires on December 31, 2006.

-- SC Resolution 1373 (2001) - Established the Counter-Terrorism Committee (CTC), which monitors states' implementation of resolution 1373 (2001) and engages in capacity-building work. France and the UK proposed the CTC's creation, and the U.S. accepted it with initial skepticism. Since 2001, the United States has participated actively in and supported the CTC, but as we approach the fifth anniversary of resolution 1373, we need to review how the CTC can further U.S. counter-terrorism objectives. Among other things, resolution 1373 obligates states to prevent and suppress terrorist financing; refrain from supporting terrorists, including by suppressing of recruitment of

terrorist groups and eliminating the supply of weapons to terrorists; take the necessary steps to prevent terrorist acts; deny safe haven to terrorists and their supporters; bring terrorists to justice; provide states assistance in criminal investigations or proceedings relating to the financing or support of terrorist acts; and prevent the movement of terrorists through effective border controls and controls on issuance of identity papers and travel documents.

Resolution 1373 imposes many of the same obligations as resolution 1267 and its successor resolutions -- freezing assets, denying weapons to terrorists, and preventing terrorists from travel -- although 1373 is not limited to al Qaeda, the Taliban, and their associates and it does not empower the CTC to name persons and entities for sanctions. The Committee has three sub-committees, which review assessments of states' implementation of resolution 1373 (2001) prepared by the Counter-Terrorism Committee's Executive Directorate (CTED).

-- SC Resolution 1535 (2004) - Established CTED to enhance the CTC's ability to monitor the implementation of resolution 1373 (2001) and effectively continue its work to build states' capacity to implement resolution 1373 (2001). In creating CTED, the Council intended to allow the CTC to transition from a process that relied on analyzing and responding to states' written reports to one that includes identifying best practices, conducting visits to selected countries to review compliance, and facilitating the delivery of technical assistance to states that need it. That progress has begun. CTED has 32 members, 29 of which are professional staff. Its mandate extends until December 31, 2007. The CTED Executive Director's current contract expires December 31, 2006. The Council performed a comprehensive review of CTED last December and will conduct another review by December 31, 2006.

-- SC Resolution 1624 (2005) - Tasked the CTC to include in its dialogue with states their efforts to implement the resolution, work with states to build capacity, and report back to the Council by September 2006 on implementation of the resolution. Resolution 1624 (2005) calls upon states to adopt such measures as may be necessary and appropriate and in accordance with their obligations under international law to prohibit by law incitement to commit a terrorist act or acts, prevent such contact, and deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of such conduct.

-- SC Resolution 1540 (2004) - Set up the 1540 Committee, which is mandated to promote states' full implementation of that resolution. The resolution requires states to develop

and enforce appropriate legal and regulatory measures against the proliferation of weapons of mass destruction and their means of delivery, including to terrorists and other non-state actors. It also requests states to submit a report on their implementation of resolution 1540; 58 states have not yet reported. During the Committee's initial two-year mandate, an eight-member experts' team evaluated states' reports and prepares matrices reflecting its assessment of states' implementation, which the Committee's three sub-committees then review and approve. The experts also prepared a legislative database, containing the texts of laws and other measures states have taken to implement resolution 1540. Although the Chairman and the experts travel to attend international conferences relevant to resolution 1540, they have not engaged regularly in state visits.

-- SC Resolution 1673 (2006)) Extended the 1540 Committee's mandate for two years and tasked the Committee, among other things, to intensify its efforts to promote the full implementation of resolution 1540. Five experts currently assist the Committee, which might need to hire additional experts to help the Committee fulfill its mandate. The contracts for four of the experts expire December 31, 2006; the fifth is on a month-to-month contract.

-- SC Resolution 1566 (2004)) Established the 1566 Working Group, with a mandate to submit recommendations to the Council on (1) what practical measures could be applied to individuals, groups or entities involved in or associated with terrorist activities beyond those designated by the 1267 Committee, and (2) the possibility of establishing an international fund to compensate victims of terrorism. The Working Group reported to the Council in December 2005, noting that it had not reached agreement on the establishment of a UN list of terrorists beyond the 1267 Committee's list. The Group also noted that the resolution of questions about the establishment of an international compensation fund was premature. The Working Group has met once in 2006, and aside from Russia and China, few delegations have shown interest in continuing its discussions.

UNSC's CT Efforts Make Progress

¶6. The 1267 Committee is working to strengthen sanctions against al-Qa'ida and its associates, including by focusing more on the travel ban and addressing non-compliance. The Committee (at USUN's request) has tasked the MT to prepare a paper specifying cases of non-compliance. The case studies will likely show various reasons behind instances of non-compliance, such as confusion over entries on the sanctions list, ignorance among some states about sanctions enforcement obligations, and, in some cases, lack of political will. USUN plans to press the Committee to deal with all the reasons identified in the upcoming paper, including the more sensitive issue of lack of political will. The Committee is also working to improve the quality and accuracy of the sanctions list.

¶7. Since it became fully staffed in September 2005, CTED has begun to make the transition from focusing on analyzing and responding to states' reports to working more proactively. CTED faced internal operational challenges during the start-up period, but has begun to make progress. For example, it has conducted five state visits since September, bringing the total number of these trips to nine since 2005. Its Executive Director also recently visited Paraguay to press government leaders to fulfill Paraguay's obligations under resolution 1373. A team also traveled with one of the 1540 experts to meet with the CARICOM Secretariat to assist CARICOM members, many of which have had trouble submitting reports to the three SC committees, in meeting their obligations under resolution 1373. CTED is planning up to seven additional trips this year, including a trip to the Philippines, which it will conduct jointly with the 1267 Monitoring Team. CTED has developed a new tool, the Preliminary Implementation Assessment (PIA), which will improve its evaluations of states' compliance by providing a standardized template for analyzing all states' implementation and thus helping the CTC and CTED focus on states encountering the greatest difficulties. CTED also has prepared a directory of best practices relevant to resolution 1373 (2001).

¶8. Since the Security Council renewed the 1540 Committee's mandate in April 2006, the Committee has been unable to reach consensus on its work program but has participated in several successful outreach programs to promote states' implementation of resolution 1540 (2004) (ref A). The Russian and Chinese delegations oppose including explicit

language to task the Committee to analyze and assess states' implementation of resolution 1540, develop standards for measuring states' compliance with resolution 1540, or set regional- or state-specific assistance priorities for stemming proliferation activity - all key U.S. objectives.

¶9. Going forward, the U.S. has a two-fold task - to improve the current UN system and use it more effectively as a weapon in the war on terrorism. To succeed in this effort, the United States needs to be able to articulate consistent, clear objectives and operate with agility. The recently adopted G-8 Statement on Strengthening the UN's Counterterrorism Program should provide a blueprint for enhancing the work of the organization. U.S. counter-terrorism efforts at the UN should press states to do more to counter terrorism while also using multilateral mechanisms to help build states' capacity to counter terrorism and to aggregate efforts of individual donor states.

¶10. The 1267 Committee, the CTC, and the 1540 Committee have made significant strides but they could be more effective. While the three committees have distinct mandates, some of their working methods) visiting states requesting information from states, or, coordinating with international and regional organizations, - are often the same, and the committees encounter many similar issues and problems. Because the committees were created as reactions to threats and events rather than as part of a planned program, there is some overlap and lack of cohesion. The Secretary General's Report on Mandates (A/60/733, para 122) makes a series of suggestions for the committees, including undertaking joint missions, consolidating reporting, and establishing a common norm for dealing with non-compliance. The Report concludes that, "In the long run, it would be a good idea to look at the possibility of creating a single subsidiary body that covers all the expertise of the current three." Similarly, the Gingrich-Mitchell report recommended that the United States "take the lead in the council to rationalize the work of the three Security Council committees responsible for terrorism and proliferation under three separate resolutions (1267, 1373, and 1540)."

¶11. Despite the overlaps between the mandates of the 1267 Committee and the CTC, USUN does not view consolidating the three committees as feasible at this stage. (We should also be careful about taking any action that would jeopardize the unique mandate of 1267 and its operations). Doing so would require a new Security Council resolution, which would be difficult to achieve in the near term and might not reap the kind of returns that would make it politically cost effective. While the committees have not discussed the issue openly, a number of states made it clear (including during the Council's discussions on the Secretary-General's Report on Mandates) that they do not favor consolidation. One exception is Japan, which has not taken a public position but might support consolidation to reduce costs and improve efficiency. Instead, the U.S. should focus its efforts on steps the Committees can take to improve their efficiency.

Steps To Improve the SC CT System

¶12. First, the committees should, whenever possible, combine requests for reports in the same letter or envelope. Doing so would ensure that the committees do not send similar or identical questions at separate times during the year, which they have done in the past.

¶13. Second, the three committees should take a coordinated approach to the 31 states that have not reported or are late in reporting to all three committees. The expert bodies are already working together to prepare such an approach. The committees should also ask the experts to prepare one set of questions that the three committees could send to the relevant states, taking care to ensure that the proliferation-related elements of resolution 1540 are addressed sufficiently.

¶14. Third, the 1267 MT and CTED should be encouraged to make joint visits, if appropriate. Apart from easing the burden that hosting visits places on states, joint visits would help enhance follow up with states, allowing the MT and CTED to devise joint approaches to help states fulfill their obligations. Joint trips will also reduce the paperwork the two committees must address because the experts could prepare one trip report the two committees could discuss. The MT has

invited CTED to participate in all of the trips it hopes to make between July and December 2006, and the two groups hope to make five joint visits in that period.

¶15. Fourth, the committees and their experts should coordinate their efforts relating to capacity building more effectively. (NOTE: The 1267 Committee does not work on capacity building. END NOTE.) The U.S. should encourage CTED to expand upon some new initiatives it is pursuing in this area and press the 1540 Committee and its experts to coordinate with the CTC and CTED. The U.S. should also encourage the CTC/CTED to increase efforts to bring donors together with recipients to exchange views about key needs and coordinate strategies to address them. The July 21 meeting the CTC convened in New York with representatives of potential donors and the Pacific Island States (ref B) is the type of proactive, results-oriented approach that the CTC and CTED should replicate with other states and regions.

Other Key Objectives

¶16. We also should continue to focus the 1267 Committee and the CTC on promoting states' efforts to deny terrorists safe haven. In response to USUN's lead, the CTC/CTED is beginning to shift its focus from the provisions of resolution 1373 related to terrorism finance, to provisions concerning denial of safe haven, including through improved border security. CTED has introduced a new emphasis on border security to its state visits and is devoting its fifth special meeting with international, regional, and sub-regional organizations to border security and preventing terrorists from traveling. CTED is working with the International Civil Aviation Organization (ICAO), Interpol, the World Customs Organization (WCO), the International Maritime Organization (IMO), and the United Nations High Commissioner for Refugees (UNHCR) to prepare for the meeting, now scheduled for early 2007. USUN also is encouraging CTED to place priority on border security in its efforts to facilitate technical assistance.

¶17. Promoting states' compliance with the relevant resolutions should remain another key objective. The 1267 Committee is effectively addressing issues of non-compliance. Because of the nature of sanctions, the 1267 Committee can easily identify violations of the regime when the information is uncovered and "named and shamed" some violators. The CTC and 1540 committees should also be more proactive in promoting states' compliance with their obligations under the relevant resolutions. Both resolutions are useful tools for heightening awareness of the threats of terrorism and proliferation, but non-compliance remains a significant problem. Many states remain unclear about how to fulfill the obligations the Council has established and want the committees to provide direction. Establishing and publicizing standards also would meet that need but setting such standards in Committees that work by consensus is challenging. Furthermore, the current regime is not enforceable without further SC action to impose sanctions- a highly unlikely move. In addition, for many developing states, it may be unreasonable to expect full compliance in the immediate future. The CTC has only recently begun to play a more active role in working to facilitate the delivery of technical assistance, and it has not yet achieved concrete results. Without first ensuring that states that are willing to implement their obligations get the assistance they need, it will be difficult to reach consensus on any effort to label states as non-compliant.

¶18. A more realistic strategy in the short term is to focus the committees on identifying and promoting best practices that states can use as a model in implementing their obligations. The CTC is poised to adopt a directory of best practices for implementing resolution 1373 that includes the FATF standards, as well as recommendations developed by ICAO, the IMO, and the WCO (ref C). USUN will press the 1540 Committee to prepare a similar directory of practices relevant to resolution 1540. That directory should refer to the international standards such as the International Atomic Energy Agency's recommendations or key national practices the Committee and its experts have identified.

¶19. Another way of contributing is by lending U.S. expertise to CTED, the MT, the 1540 experts, and the committees and by providing U.S. resources as appropriate to support key initiatives. The U.S. has provided workshops for the three experts' groups on terrorism financing and preventing terrorists from traveling. The Coast Guard briefed CTED and MT members on maritime security measures at the Coast Guard's command center for the ports of New York and New Jersey, and USUN is working with the Department to arrange for CTED and MT members to tour JFK Airport in September. These initiatives have signaled the U.S. commitment to enhancing

the effectiveness of the experts' teams. To assist the 1540 Committee in focusing on proliferation financing, the U.S. should provide a session on that topic for the Committee and its experts. The US should also expend more energy on publicizing its CT assistance activities.

CTED and Ruperez

¶20. Javier Ruperez, former Spanish Ambassador to the United States, serves as CTED Executive Director. His current term expires in December. Ruperez's tenure has been marred by constant conflict with CTC Chairman, Danish Perm Rep Ellen Margrethe Loj, whose tenure as Chairman also ends on December 31, 2006. Despite this clash in management style, both have been responsive to US concerns and consulted with us on the work of the Committee.

On the positive side, Ruperez's experience as a senior Spanish diplomat serves him well in representing CTED in discussions with other governments. He works closely and readily co-operates with the United States. For example, he coordinated closely with USUN in making a successful trip in July to press Paraguay to fulfill its obligations under resolution 1373) another U.S. objective. Before December 31, 2006, the CTC must consider whether to recommend that the Secretary-General renew the contract. Ruperez shares US

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counter terrorism objectives and has been unfailingly responsive. In view of the progress that CTED has made and Ruperez's excellent cooperation with us, the U.S. should support the extension of his contract.

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